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June 6, 2001

Members of the Fair Political Practices Commission

428 J Street, Suite 800

Sacramento, CA 95814

Dear Commissioners:

As the first General Counsel to the Fair Political Practices Commission (from 1975-83) and as a principal co-author of the Political Reform Act of 1974, I am always reluctant to criticize my successors. However, I must strenuously object to the staff's conclusion in the opinion requested by Lance Olson on behalf of the California Democratic Party (In re Olson, 0-01-112.) I would urge you to ask the staff to revise this opinion.

The issue is actually very simple. It is summarized very clearly by the staff opinion in paragraph three on page 11: "In this case, the City of Los Angeles will lose some information it may wish to have. However, it is staff's view that the rest of the state benefits by uniformity and simplicity. Also, some of the information the City seeks to obtain is disclosed, although it may be after an election is held."

This is the issue: "uniformity and simplicity" versus "disclosure." I searched the Act's purposes and intents to look for the words "uniformity and simplicity" or anything equivalent. Rather than finding those terms, I found the following:

Section 81001. "The people find and declare as follows: (d) . . . existing laws for disclosure of campaign receipts have proved to be inadequate."

Section 81002. "The people enact this title to accomplish the following purposes:

(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed. . . "

Section 81003. "This title shall be liberally construed to accomplish its purposes."

Clearly, the Act was written so that disclosure was the number one priority for its provisions, and the courts and this Commission were instructed to insure that these findings and purposes were implemented.

A loophole in the disclosure laws was created by the passage of Proposition 34. It exempted the parties from disclosing payments for communications made to its members even if these communications were made directly on behalf of a particular candidate.

Few people were aware of this loophole for local candidates until the parties starting spending massively on behalf of two candidates in the April Los Angeles election. (The Democrats endorsed Antonio Villaraigosa and the Republicans Steve Soboroff, and both spend huge sums of money on behalf of their candidates.)

Much to the credit of the Los Angeles City Ethics Commission and the Los Angeles City Council, both responded to the loophole created by the state law and enacted emergency ordinances requiring disclosure by the political parties. It is amazing that they did this in the middle of an election. Councilmembers, who were on opposite sides in the race for mayor, still joined together in enacting this ordinances in order to preserve the Los Angeles campaign finance law.

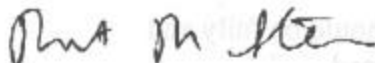
The staff opinion says that simplicity and uniformity is more important than disclosure. That is all the opinion says about these goals. It gives no reasons, no rationale, and no support from the purposes of the Act for the conclusion.

Voters need to know who is supporting and opposing candidates before, not after, an election. That is the essence of our campaign finance laws. They need to know how much is being spent on behalf of candidates. The state legislature mistakenly exempted from disclosure expenditures to members of a political party. This provision applies to both state and local elections. But if a city says that it wants such disclosure, it should have the authority to do so.

This is one of the most important decisions you will be making this year. You must decide whether uniformity and simplicity is a more important state interest than the municipal interest of requiring disclosure of hundreds of thousands or even millions of dollars before an election so that its comprehensive campaign finance system can be preserved.

I think your choice is very clear.

Best wishes,



Robert M. Stern
President